

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,) CV-18-1633-BLF
)
PLAINTIFF,) SAN JOSE, CALIFORNIA
)
VS.) MAY 17, 2018
)
BURGA, ET AL,) PAGES 1-14
)
DEFENDANT.)
)
_____)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE BETH LABSON FREEMAN
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

FOR THE PLAINTIFF: **BY: AMY TALBURT MATCHISON**
DEPARTMENT OF JUSTICE
TAX DIVISION
BEN FRANKLIN STATION
P.O. BOX 683
WASHINGTON, DC 20044

FOR THE DEFENDANT: **BY: JAY ROBERT WEILL**
BURGA **EMILY KINGSTON**
SIDEMAN & BANCROFT LLP
ONE EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111

APPEARANCES CONTINUED ON THE NEXT PAGE

OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

APPEARANCES CONTINUED:

FOR THE DEFENDANT:
MANSKY

BY: DENISE MEJLSZENKIER
LAW OFFICES OF JOHN E. HILL
333 HEGENBERGER ROAD, SUITE 500
OAKLAND, CA 94621

SAN JOSE, CALIFORNIA

MAY 17, 2018

P R O C E E D I N G S

(COURT CONVENED AT 9:02 A.M.)

THE CLERK: CALLING CASE 18-1633. UNITED STATES OF
AMERICA VERSUS BURGA, ET AL.

COUNSEL, PLEASE COME FORWARD AND STATE YOUR APPEARANCES.

MS. KINGSTON: GOOD MORNING, YOUR HONOR.
EMILY KINGSTON.

MR. WEILL: JAY WEILL FOR FRANCIS BURGA.

MS. MEJLSZENKIER: GOOD MORNING, YOUR HONOR.
DENISE MEJLSZENKIER FOR RUSSELL MANSKY.

THE COURT: GOOD MORNING.

MS. MATCHISON: AND GOOD MORNING, YOUR HONOR, AGAIN.
AMY MATCHISON FOR THE UNITED STATES.

THE COURT: ALL RIGHT. THIS IS THE GOVERNMENT'S
MOTION FOR PETITION TO ENFORCE THE IRS SUMMONS.

WE HAVE A COUPLE OF MATTERS TO ADDRESS TODAY. UNTIL I
READ THE GOVERNMENT'S REPLY, I FELT THAT THE DEFENSE ARGUMENTS
WERE SPOT ON, IN TERMS OF THE GOVERNMENT NOT ESTABLISHING THAT
THEY DID NOT ALREADY HAVE THE INFORMATION BEING REQUESTED.

I'M A LITTLE DISAPPOINTED TO SEE ALL OF THAT COME IN THE
REPLY, BECAUSE THAT MEANS THE RESPONDENTS WERE UNABLE TO
PROVIDE A WRITTEN RESPONSE. BUT IT IS THE SECOND MULLINS
DECLARATION IS WHAT I WOULD HAVE EXPECTED TO SEE UNDER THE
CIRCUMSTANCES.

09:03:41 1 SO THIS IS A REQUEST FOR A LIMITED EVIDENTIARY HEARING, IN
09:03:45 2 MY VIEW, MR. WEILL, THAT HAS BEEN OBVIATED BY THE SHOWING MADE
09:03:49 3 BY THE GOVERNMENT IN THE MULLINS DECLARATION.

09:03:55 4 AND IN ADDITION, TO ME, IT APPEARS THAT A LARGE PART OF
09:03:58 5 THE DISPUTE HAS TO DO WITH DOCUMENTS SHIELDED BY THE PRIVILEGE
09:04:03 6 LOG. AND I WOULD SAY THAT THOSE PRIVILEGE LOGS ARE ENTIRELY
09:04:08 7 INADEQUATE, AND THEY ARE A WASTE OF PAPER, FRANKLY, FOR THE
09:04:13 8 LACK OF INFORMATION THEY CONTAIN.

09:04:16 9 THAT DOESN'T MEAN YOU CAN'T REVISE THEM, BECAUSE PRIVILEGE
09:04:18 10 IS IMPORTANT, THAT WILL BE HONORED BY THE COURT WHERE PROPERLY
09:04:22 11 ASSERTED, BUT AT THIS POINT, I DON'T THINK THAT THAT PROTECTS
09:04:27 12 EITHER OF THE RESPONDENTS HERE AS PRESENTLY WRITTEN.

09:04:30 13 SO LET ME ADDRESS, FIRST, THE ISSUE OF WHETHER I NEED AN
09:04:34 14 EVIDENTIARY HEARING.

09:04:38 15 MR. WEILL: YOUR HONOR, WITH RESPECT TO THE -- LET ME
09:04:41 16 JUMP IN WITH RESPECT TO THE PRIVILEGE LOGS.

09:04:46 17 THE ONLY DOCUMENTS, AND I THINK WE WOULD BE MORE THAN
09:04:50 18 HAPPY, WE WILL GO BACK AND REVISE THE PRIVILEGE LOGS. BUT THE
09:04:53 19 ONLY THING WE'VE KEPT FROM THE IRS ARE COMMUNICATIONS AFTER THE
09:04:56 20 DEATH OF MARGELUS BURGA, E-MAIL TRAFFIC BETWEEN US AND THE
09:05:01 21 FOLKS AT LIECHTENSTEIN.

09:05:04 22 WE HAVE PRODUCED EVERY PIECE OF PAPER THAT THEY REQUESTED
09:05:07 23 THAT HAS BEEN PROVIDED TO US BY THESE FOUNDATIONS IN
09:05:12 24 LIECHTENSTEIN. WE HAVE NO CONTROL OVER THEM, IT'S ALL A
09:05:15 25 VOLUNTARY PRODUCTION BY THEM.

09:05:17 1 SO WE HAVE NOTHING LEFT TO -- IN THE E-MAILS IN THE
09:05:20 2 PRIVILEGE LOG, THERE'S NOTHING THERE THAT -- WE ARE NOT HOLDING
09:05:24 3 BACK ANY DOCUMENT. WHAT WE ARE HOLDING BACK ARE COMMUNICATIONS
09:05:28 4 BETWEEN THE FOLKS IN LIECHTENSTEIN AND US TALKING ABOUT TAX
09:05:31 5 RETURN PREPARATION, ET CETERA.

09:05:33 6 SO I JUST WANT TO MAKE IT CLEAR THAT OUR CLIENT, FRANCIS
09:05:38 7 BURGA, WHO IS HERE, HAS NO CONTROL OVER OR ABILITY TO REQUIRE
09:05:43 8 THE FOLKS AT LIECHTENSTEIN TO PRODUCE RECORDS.

09:05:46 9 THEY HAVE VOLUNTARILY DONE SO. SO I JUST WANT THE COURT
09:05:49 10 TO BE CLEAR THAT WE HAVEN'T KEPT ANY DOCUMENTS.

09:05:52 11 SO NOW WHAT'S HAPPENED, 14 MONTHS AGO, AS YOU KNOW, WE
09:05:56 12 SENT A LETTER AFTER THE SUMMONS WERE SERVED SAYING, PLEASE TELL
09:05:59 13 US WHAT IT IS THAT YOU THINK WE'VE NOT KEPT BACK.

09:06:02 14 THEY WENT SILENT ON US AND DID NOTHING FOR 14 MONTHS,
09:06:08 15 UNTIL TWO WEEKS AGO. WE FINALLY GET KEVAN MULLINS'S
09:06:11 16 DECLARATION THAT SAYS YOU PRODUCED PAGE 4 AND 5, BUT NOT PAGE 6
09:06:16 17 AND 7.

09:06:16 18 WE HAVE PRODUCED EVERY SINGLE PAPER THAT WE RECEIVED FROM
09:06:20 19 LIECHTENSTEIN.

09:06:20 20 THE COURT: SO I THINK ACTUALLY WHAT NEEDS TO HAPPEN,
09:06:22 21 AND I ACCEPT YOUR REPRESENTATION, BUT MS. BURGA NEEDS TO SIT
09:06:26 22 FOR AN EXAMINATION AND MAKE THOSE STATEMENTS SPECIFICALLY UNDER
09:06:30 23 OATH.

09:06:31 24 AND THEN -- AND MR. MANSKY SAYS THAT HE'S PREPARED TO COME
09:06:37 25 IN AND MAKE STATEMENTS UNDER OATH AS WELL ABOUT WHAT HE HAS.

09:06:40 1 AND WE ARE PUTTING ASIDE THE PRIVILEGE LOG FOR A MOMENT.

09:06:47 2 MS. MATCHISON, OF COURSE THAT'S ALL THE GOVERNMENT CAN
09:06:49 3 OBTAIN IS A DIRECT STATEMENT AS TO A PARTICULAR DOCUMENT THAT
09:06:56 4 NO OTHER PIECES OF IT ARE UNDER THE CONTROL OF THE RESPONDENT.

09:07:01 5 MS. MATCHISON: YES, YOUR HONOR.

09:07:01 6 THE ONLY THING THAT WE WOULD SAY IS THAT MS. BURGA HAS
09:07:06 7 BEEN DESIGNATED AS PROTECTOR FOR THESE FOUNDATIONS IN
09:07:09 8 LIECHTENSTEIN. SO WE WOULD QUERY, WHAT DOES THAT MEAN?

09:07:12 9 THE COURT: MAYBE YOU NEED TO FIND OUT WHAT THAT
09:07:15 10 MEANS.

09:07:15 11 MS. MATCHISON: I THINK THAT'S BEEN PART OF THE
09:07:17 12 PROBLEM IS THAT MS. BURGA HAS REPRESENTED SHE HAS NO ABILITY TO
09:07:20 13 CONTROL THESE THINGS AND THAT SHE CAN'T GET THESE DOCUMENTS;
09:07:22 14 HOWEVER, SHE HAS BEEN ABLE TO GET DOCUMENTS IN THE PAST.

09:07:26 15 THE COURT: IT SEEMS TO ME YOU CAN REACH OUT TO
09:07:32 16 AUTHORITIES IN LIECHTENSTEIN AND FIND OUT YOURSELF ABOUT, THESE
09:07:34 17 MAYBE LEGAL ISSUES ABOUT HER STATEMENT UNDER OATH, "I CAN'T GET
09:07:35 18 THESE" VERSUS HER LEGAL AUTHORITY, COULD BE GROUNDS FOR HER TO
09:07:38 19 BE IN CONTEMPT. BUT UNTIL YOU HAVE THAT -- AND, YOU KNOW, IF
09:07:44 20 SHE WANTS TO MAKE A STATEMENT UNDER OATH AND THEN YOU CAN GO
09:07:46 21 AHEAD AND TRY TO DISPROVE IT, SHE'S GOING TO BE FACING AN
09:07:50 22 ENTIRELY DIFFERENT SET OF CONCERNS.

09:07:52 23 BUT I THINK YOU NEED TO MAKE YOUR RECORD. AND BECAUSE
09:07:57 24 YOU'VE NOW, THROUGH THE MULLINS SECOND DECLARATION, I THINK
09:08:01 25 GIVEN A VERY EXPLICIT STATEMENT OF WHAT YOU HAVE AND WHAT'S

09:08:06 1 INCOMPLETE, THAT I THINK YOU CAN DO THAT, AND I THINK YOU COULD
09:08:09 2 CREATE A CLEAR RECORD, AND SHE COULD THEN BE, I THINK, REQUIRED
09:08:13 3 TO TESTIFY AS TO THE REASON SHE DOES NOT HAVE ACCESS TO THE
09:08:19 4 IDENTIFIED DOCUMENTS THAT THE GOVERNMENT DOES NOT HAVE IN ITS
09:08:22 5 POSSESSION.

09:08:23 6 THEN YOU CAN LOOK TO SEE WHETHER HER STATEMENT OF NO
09:08:28 7 ACCESS TO THE DOCUMENTS IS LEGALLY CORRECT. AND PRESUMABLY, IF
09:08:34 8 YOU COME UP WITH AUTHORITY THAT SHOWS SHE DOES HAVE ACCESS, YOU
09:08:39 9 WOULD SHARE THAT WITH MR. WEILL SO THAT THEY COULD RECONSIDER
09:08:43 10 WHETHER THEY WILL TAKE ADDITIONAL STEPS TO PRODUCE THE
09:08:46 11 INFORMATION.

09:08:48 12 SO I GUESS LONG WAY BACK, MR. WEILL, I THINK THAT, I DON'T
09:08:53 13 KNOW WHAT WE WOULD HAVE AN EVIDENTIARY HEARING ABOUT AT THIS
09:08:56 14 POINT.

09:08:56 15 MR. WEILL: WELL, WE WERE GOING TO HAVE AN
09:08:58 16 EVIDENTIARY HEARING ABOUT THE GOOD FAITH OF MR. MULLINS, AND
09:09:02 17 NOW YOU ARE CORRECT IN THE SENSE NOW ALL OF THE SUDDEN TWO
09:09:04 18 WEEKS AGO, WE FINALLY GET WHAT WE ASKED FOR 14 MONTHS AGO.

09:09:08 19 THE COURT: I UNDERSTAND.

09:09:09 20 MR. WEILL: BUT I'M MORE THAN HAPPY FOR FRANCIS BURGA
09:09:12 21 TO SIT ONE MORE TIME UNDER OATH AND TO ASK WHATEVER QUESTIONS
09:09:17 22 ABOUT HER ABILITY TO OBTAIN THESE RECORDS.

09:09:21 23 THE COURT: OKAY.

09:09:22 24 AND MR. MANSKY HAS ALREADY INDICATED HE WILL DO SO.

09:09:27 25 MS. MEJLSZENKIER: YES, YOUR HONOR.

09:09:27 1 THE COURT: OKAY. WELL, THAT PART IS GOOD.

09:09:29 2 NOW LET'S TALK -- YOU GOT MY ATTENTION WHEN YOU SUGGESTED
09:09:33 3 AN IN CAMERA REVIEW OF THESE DOCUMENTS, BECAUSE ONE, I
09:09:38 4 PERSONALLY WILL NOT BE DOING AN IN CAMERA REVIEW OF THOUSANDS
09:09:42 5 OF DOCUMENTS.

09:09:43 6 MR. WEILL: UNDERSTOOD.

09:09:44 7 THE COURT: AND IT WILL BE NECESSARY, BECAUSE I DOUBT
09:09:48 8 THAT THERE'S GOING TO BE AN AGREEMENT, BUT I EXPECT WITH AN
09:09:53 9 ADEQUATE PRIVILEGE LOG, THAT THE GOVERNMENT WILL BE ABLE TO
09:09:56 10 AGREE THAT CERTAIN IDENTIFIED DOCUMENTS ARE SUBJECT TO
09:10:03 11 PRIVILEGE AND WE WILL REDUCE THE LIST IN CONTENTION, THAT'S
09:10:06 12 USUALLY THE WAY THE PRIVILEGE LOG WORKS.

09:10:09 13 THEN IF AN IN CAMERA REVIEW IS NECESSARY, PERHAPS THE
09:10:13 14 GOVERNMENT CAN TELL ME IN ANOTHER CASE IN NEW YORK WE'VE ALL
09:10:17 15 FOLLOWED, I UNDERSTAND A SPECIAL MASTER WAS APPOINTED TO DO
09:10:21 16 JUST THIS SORT OF THING. I DON'T KNOW WHO PAYS FOR THAT, SO I
09:10:26 17 DON'T KNOW WHETHER --

09:10:27 18 MR. WEILL: I'M NOT SURE EITHER, YOUR HONOR.

09:10:29 19 MS. MATCHISON: NEITHER AM I, YOUR HONOR.

09:10:30 20 THE COURT: I'M PRETTY SURE THAT SPECIAL MASTER IN
09:10:33 21 NEW YORK IS NOT DOING IT FOR FREE.

09:10:35 22 MS. MATCHISON: I WOULD NOT THINK SO.

09:10:36 23 MR. WEILL: I'M SURE OF THAT.

09:10:37 24 THE COURT: SO WE ARE NOT THERE YET.

09:10:39 25 BUT I WOULD -- AND I WOULD HOPE THAT THE PARTIES WOULD

09:10:43 1 COME TO THE COURT WITH AN AGREEMENT AS TO HOW THAT WOULD OCCUR.

09:10:50 2 BUT I THINK THAT SINCE THAT'S BEING HANDLED BY A SISTER
09:10:53 3 U.S. ATTORNEY OFFICE, I'M SURE THAT MS. MATCHISON WILL HAVE NO
09:10:59 4 PROBLEM FINDING THE ANSWER TO THAT SIMPLE QUESTION OR THAT
09:11:07 5 KNOWLEDGE MAY BE WITHIN YOUR OWN OFFICE.

09:11:09 6 BUT I DON'T KNOW WHETHER IT'S A SPECIAL MASTER OR WHAT,
09:11:11 7 BUT MY REAL CONCERN IS WHO PAYS FOR IT. AND I JUST DON'T KNOW
09:11:15 8 THE ANSWER, WHETHER THE GOVERNMENT HAS TO PAY FOR THAT, I'M
09:11:17 9 PRETTY SURE THE COURT DOESN'T PAY FOR IT.

09:11:20 10 MR. WEILL: RIGHT.

09:11:21 11 THE COURT: SO IT SEEMS TO ME THAT AS A RESULT OF
09:11:27 12 THIS, THAT WE HAVE A PATH FORWARD, AT LEAST A LURCHING FIRST
09:11:34 13 STEP, PERHAPS.

09:11:35 14 SO I WILL ORDER THAT MR. MANSKY AND MS. BURGA APPEAR FOR
09:11:38 15 AN ADDITIONAL INTERVIEW. I DON'T KNOW WHAT IT'S CALLED, AND I
09:11:43 16 WILL ASK THE GOVERNMENT IF YOU HAVEN'T ALREADY GIVEN ME A
09:11:46 17 PROPOSED ORDER, IF YOU WOULD DO THAT.

09:11:48 18 I WILL ADDITIONALLY ORDER THAT THE PRIVILEGE LOGS ARE TO
09:11:53 19 BE PREPARED IN A COMPLIANT FORM SO THAT AN ADEQUATE REVIEW CAN
09:11:57 20 BE MADE.

09:11:58 21 MR. WEILL: WE SHALL DO SO.

09:11:59 22 THE COURT: I APPRECIATE THAT.

09:12:00 23 AND THERE ARE SEVERAL TYPES OF PRIVILEGE THAT ARE BEING
09:12:05 24 ASSERTED, AND THE KOVEL'S PRIVILEGE IS A LOT MORE COMPLICATED
09:12:12 25 THAN THE ATTORNEY-CLIENT, IT FEEDS OFF OF ATTORNEY-CLIENT.

09:12:15 1 AND FRANKLY, I'VE NEVER HAD TO ACTUALLY REVIEW THAT. BUT
09:12:19 2 THE DISCLOSURE IS GOING TO HAVE TO BE A LITTLE BIT MORE
09:12:21 3 COMPLETE ON THAT AS WELL.

09:12:28 4 I DON'T KNOW WHETHER YOU WANT ME TO IMPOSE A DEADLINE FOR
09:12:31 5 THE MODIFIED PRIVILEGE LOG, OR THE PARTIES WILL REACH AN
09:12:34 6 AGREEMENT ON THAT.

09:12:35 7 MR. WEILL: I THINK WE CAN PROBABLY REACH AN
09:12:37 8 AGREEMENT. WE WILL WORK ON IT IMMEDIATELY.

09:12:39 9 THE COURT: I APPRECIATE THAT.

09:12:41 10 WELL, IT'S ALWAYS BETTER IF IT'S INFORMAL BECAUSE YOU
09:12:43 11 DON'T HAVE TO KEEP GETTING COURT PERMISSION, AS THINGS TAKE
09:12:47 12 MORE TIME THAN EXPECTED.

09:12:48 13 SO OKAY. THAT'S GREAT.

09:12:55 14 THEN AS SOON AS THE GOVERNMENT SENDS ME A PROPOSED ORDER,
09:12:59 15 I WILL SIGN IT AND THEN YOU WILL HAVE AN ADDITIONAL OPPORTUNITY
09:13:02 16 TO QUESTION THE TWO RESPONDENTS.

09:13:06 17 AND, YOU KNOW, OBVIOUSLY GETTING -- HAVING SPECIFIC
09:13:09 18 QUESTIONS WITH THE ANSWER UNDER OATH WILL LEAD TO THE NEXT
09:13:13 19 STEP. IT MAY LEAD TO DISMISSING EVERYTHING, OR IT MAY LEAD TO
09:13:17 20 BIGGER PROBLEMS THAN THERE WERE BEFORE.

09:13:19 21 SO THE PARTIES, I'M SURE, WILL HAVE THE OPPORTUNITY TO
09:13:21 22 CONDUCT SOME RESEARCH AS TO WHAT CONTROL THERE ACTUALLY IS OVER
09:13:26 23 THESE DOCUMENTS.

09:13:28 24 MR. WEILL: SHOULD WE SET A FURTHER HEARING IN THE
09:13:30 25 FUTURE WITH YOU, WITH THE COURT NOW?

09:13:35 1 THE COURT: YOU KNOW, I NORMALLY WOULDN'T BECAUSE
09:13:37 2 YOU'VE AGREED TO COMPLIANCE.

09:13:39 3 MR. WEILL: I WANT TO BE CLEAR WHAT WE ARE AGREEING
09:13:42 4 TO.

09:13:43 5 IT'S OUR CONTENTION THAT SHE DOESN'T HAVE THE ABILITY TO
09:13:46 6 GET THESE DOCUMENTS.

09:13:47 7 THE COURT: I UNDERSTAND.

09:13:47 8 MR. WEILL: AND SO ARE YOU SUGGESTING YOU ARE GOING
09:13:50 9 TO ENTER AN ORDER ENFORCING THE SUMMONS?

09:13:52 10 THE COURT: I AM. I AM GOING TO.

09:13:54 11 AND I'M GOING TO, AND THE RECORD REFLECTS THAT YOU, WITH
09:13:58 12 THE MULLINS'S SUCCESSION DECLARATION, THE REQUEST FOR
09:14:00 13 EVIDENTIARY HEARING HAS BEEN TAKEN CARE OF, AND THAT SHE WILL
09:14:05 14 BE ORDERED TO APPEAR.

09:14:07 15 MR. WEILL: ALL RIGHT.

09:14:08 16 THE COURT: I'M SURE SHE WILL, SHE'S REPRESENTED BY
09:14:11 17 ABLE COUNSEL, I'M SURE MR. MANSKY WILL APPEAR.

09:14:14 18 IN THE EVENT THAT THAT DIDN'T HAPPEN, THERE ARE FURTHER
09:14:17 19 ENFORCEMENT STEPS THAT REQUIRE VIOLATION OF A COURT ORDER. SO
09:14:21 20 I WANT TO PROTECT THE GOVERNMENT FROM THAT.

09:14:23 21 BUT PRESUMABLY, IT WILL SIMPLY BE A PIECE OF PAPER THAT,
09:14:26 22 IN ESSENCE, GIVES A DATE.

09:14:28 23 SO THE GOVERNMENT WILL GIVE -- AND I THINK THAT THE
09:14:30 24 ENFORCEMENT ORDER HAS TO SPECIFY A DATE; IS THAT CORRECT?

09:14:35 25 MS. MATCHISON: WE CERTAINLY CAN, YOUR HONOR.

09:14:37 1 THE COURT: I CAN'T REMEMBER HOW I'VE DONE THEM IN
09:14:40 2 THE PAST.

09:14:45 3 MR. WEILL: WHAT WE WOULD SUGGEST IS AN ORDER
09:14:47 4 REQUIRING HER TO APPEAR AS ON OR BEFORE A CERTAIN DATE, WHICH
09:14:50 5 WE WILL COMPLY WITH.

09:14:52 6 THE COURT: YES.

09:14:54 7 MR. WEILL: BECAUSE OUR CONTENTION IS, AS YOUR HONOR
09:14:56 8 KNOWS, THAT SHE DOESN'T HAVE THE ABILITY TO PRODUCE THESE
09:14:59 9 RECORDS.

09:14:59 10 THE COURT: I APPRECIATE THAT.

09:15:00 11 AND SO I THINK THIS, RIGHT NOW I REALLY APPRECIATE THAT
09:15:04 12 THE PARTIES CAN WORK TOGETHER BY MOVING FORWARD ON IT AND, YOU
09:15:11 13 KNOW, THERE IS A CONSEQUENCE WHEN THE GOVERNMENT HAS STATEMENTS
09:15:15 14 UNDER OATH THAT THE PARTY IS UNABLE TO PRODUCE THE DOCUMENTS.
09:15:19 15 THEN THE BURDEN IS REALLY ON THEM TO ESTABLISH OTHERWISE.

09:15:23 16 MR. WEILL: ALL RIGHT.

09:15:23 17 THE COURT: SO I THINK THAT SHOULD -- HAS THE
09:15:25 18 POTENTIAL OF HELPING YOUR CLIENT.

09:15:26 19 MR. WEILL: ALL RIGHT. THANK YOU.

09:15:27 20 THE COURT: AND THAT'S WHAT YOU'RE LOOKING FOR.

09:15:29 21 MR. WEILL: I AM.

09:15:29 22 THE COURT: OKAY.

09:15:30 23 AS I SAY, AS SOON AS I GET THAT PROPOSED ORDER, I WILL
09:15:33 24 SIGN IT AND YOU WILL SHOW IT TO COUNSEL JUST TO MAKE SURE THEY
09:15:36 25 ARE IN AGREEMENT WITH THE LANGUAGE, BUT I WILL ENFORCE.

09:15:39 1

MS. MATCHISON: THANK YOU, YOUR HONOR.

09:15:40 2

I WILL HAVE THAT FOR YOU NEXT WEEK.

09:15:42 3

THE COURT: OKAY.

09:15:43 4

(THE PROCEEDINGS WERE CONCLUDED AT 9:15 A.M.)

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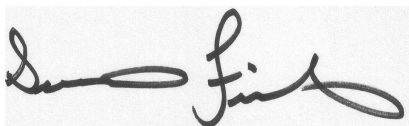
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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT
REPORTER OF THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
TRANSCRIPTION TO THE BEST OF MY ABILITY.

A handwritten signature in black ink, appearing to read "Summer A. Fisher", is written over a light gray rectangular background.

SUMMER A. FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

DATED: 5/22/18